



State of Delaware
Commission on Forensic Science

Minutes - 11/5/18

10:00 am – 12:00 pm

DFS – 1st Floor Conference Room, 200 South Adams Street
Wilmington, DE 19801

1. Welcome, Call to Order, and Introductions

- The meeting was called to order by Chair, Chief R.L. Hughes. In attendance were:

Voting Commission Members

DAG Barzilai Axelrod	Department of Justice
Secretary Rob Coupe	Department of Safety & Homeland Security – Vice Chair
Krystal Hans, PhD	Assistant Professor - Delaware State University
Chief Randall L. Hughes	Delaware Police Chiefs' Council – Chair
Major Daniel Meadows	Delaware State Troopers Association
Lisa Schwind, RN, Esquire	Office of Defense Services-Public Defender's Office
Anita Symonds, RN	Christiana Care
Secretary Kara Walker	Department of Health & Social Services

Non-voting Attendees

Commission's Legal Support

DAG Lisa Morris	Department of Justice
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Additional Non-voting Attendees

Jacqui Armstrong	DNP Student-University of Delaware
Jamie Armstrong	DFS - DNA CODIS Administrator
Lauren Brooking	DNP Student-University of Delaware
Johna Esposito	DFS - Quality Assurance Manager
John Evans	DFS - Director
Isabella Kaplan	DTI - Customer Engagement Specialist
Christopher M. Klein	DSHS - Deputy Principal Assistant
Amrita Lal-Paterson	DFS – DNA Technical Leader
Heather Maldonado	DFS – Forensic Toxicology Supervisor
Melissa Newell	DFS – Forensic Chemistry Lab Manager II
Jessica Nolden	DNP Student-University of Delaware
Jessica Smith	DFS – Chief Forensic Toxicologist

Absent Voting Commission Members

Senator Robert Marshall	Delaware State Senate
Representative John Mitchell	Delaware House of Representatives

- Chief Hughes acknowledged a letter of resignation put forth by Dr. Krystal Hans. He thanked Dr. Hans for her service on the Commission and recognized the contributions and expertise she brought to the table. He wished Dr. Hans well in her new endeavor and asked if she would like to say anything today. Dr. Hans thanked everyone for welcoming her to the Commission. She said she is moving to Indiana in January where she has accepted a position at Purdue University. Dr. Hans expressed that serving on the Commission has been a learning experience.

2. Approval of the Minutes

- Chief Hughes asked for a motion to approve the minutes from the last Commission meeting. Secretary Walker made a motion to approve; Major Meadows seconded the motion. Hearing no objections, all voting members in attendance unanimously voted to approve the minutes of the June 11, 2018 meeting.

3. Change of Commission Chair and Vice Chair

- Chief Hughes asked DAG Lisa Morris to share some background information regarding the Chair and Vice Chair positions. DAG Morris said that the Commission is able to elect a Chair and Vice Chair, each serving a 2-year period. The Chair presides over the meetings, maintains order of the meetings, determines the agenda, and other matters as needed by the Commission. Typically, she said, the Chair is succeeded by the Vice Chair and then the Commission elects a new Vice Chair. Secretary Coupe said that he and Chief Hughes spoke earlier and his opinion is that he should not be either the Chair or Vice Chair as he is the Cabinet Secretary presiding over the Division of Forensic Science. Secretary Coupe stated he will relinquish the Chair and Vice Chair positions. Chief Hughes asked members if they would like to nominate and vote on the two positions today. ODS Schwind suggested that the positions of Chair/Vice Chair not be changed at this time. She said there are two vacancies now on the Commission, with Dr. Hans resigning and Senator Marshall's retirement. Chief Hughes asked if ODS Schwind were making a motion to defer the naming of a new Chair/Vice Chair and she answered, yes. Major Meadows then asked Chief Hughes if he were amenable to staying on as Chair until the process of replacing the two members is completed. Chief Hughes said he would remain if the Commission unanimously wishes him to do so. He asked for a motion to approve deferring election of a new Chair/Vice Chair and that he remain as Chair until a new selection is made. Secretary Walker made a motion to approve; Major Meadows seconded the motion; upon which all voting members in attendance unanimously voted approval.

4. DFS Director's Report

Staffing:

- Allyson Leach joined DFS on October 1st as the new Office Manager at our Georgetown Office. Allyson comes to us with many years of experience working for the State of Delaware and DFS is glad to have her on board with us.
- On October 15th, Tuan Lam joined the DFS team as an Analytical Chemist in the Forensic Chemistry Unit. Tuan comes to DFS from Philadelphia, where he graduated from the University of the Sciences with a degree in Chemistry.

- Interviews were conducted for a casual/seasonal Forensic Investigator position at the Georgetown Office. A selection has been made and the applicant is currently in the background phase of the process.
- The job posting for the Lab Manager I position in the Forensic Chemistry Unit, which was vacated by Melissa Newell's promotion to the Lab Manager II position, was posted and closed on the State website and several national professional websites. Four applications were submitted and reviewed. Interviews are scheduled on November 13th.
- Dr. McDonough, the casual/seasonal Pathologist in Georgetown, tendered his resignation with an effective date of October 27, 2018. DFS thanks him for his assistance during our time of critical need and wish him the best in his full retirement. The position is posted on both the state and the National Association of Medical Examiners (NAME) websites for a 180-day period or until such time that a candidate is selected.

Forensic Chemistry Unit:

- The FCU continues to be very effective in its case management in terms of case backlog, reports in the review queue, and turnaround times with ~11-day turnaround and 41 cases in backlog.
- The validation process of the new GC instrument for fire debris analysis is progressing well as is the updating of the SOPs, policies and worksheets. Our second trained chemist will soon be starting mock cases to run. The final step will be to provide our data and policies to the ANAB auditors in January. The earliest we can schedule the fire debris scope extension with ANAB will be in March.
- On October 18th, Melissa Newell gave a lecture on Forensic Chemistry to students at Delaware State University. This is part of our collaboration with DSU and Dr. Hans.
- Our two Forensic Evidence Specialists continue to do a great job and are responsible for a well-organized vault, which led to our successful internal evidence audit, which was shared at the last meeting.
- On Sept 13th, Ashley Wang, Analytical Chemist III, celebrated her eight year anniversary with DFS.

DNA Unit:

- Despite a 15% increase in new cases YTD, case backlog and turnaround times remain at acceptable levels and within Court established deadlines.
- On the casework side, there is a current backlog of 35 cases, 33 of which were submitted within the last two weeks. The turnaround time is on average 52 calendar days. On the known offender side, 132 samples were inventoried for the month of October and are in process now with no backlog.
- As part of the SAKI initiative, the DNA Unit has recently accepted 40 untested sexual assault kits dating back to 2015 from police agencies across the state. The Unit will continue to accept additional older cases as our resources allow.

- Amrita Lal-Paterson, DNA Technical Leader, will be presenting a lecture at Delaware State University on Thursday. This is also as part of the on-going lecture series with Dr. Hans.
- There was a total of approximately 10 CODIS hits (or matches) both at the local and National level since our last meeting. Three (3) of those hits were as a result of the Sexual Assault Kit Initiative (SAKI) and 3 were part of the FBI sexual assault kit backlog program.
- At the end of September, the DNA management team attended the International Symposium on Human Identification in Arizona.
- DFS received the NIJ (National Institute of Justice) FY'18 grant (case reduction grant) in the amount of \$363,474. Director Evans thanked Jen Van Zanten, DNA Casework Manager, for her work as the grant coordinator.
- Congratulations to Amrita Lal-Paterson, who recently graduated from the Leadership Development Program hosted by the Delaware State Police.
- Jennifer Van Zanten (DNA Casework Manager) celebrated her 11 year anniversary with DFS, while Paul Gilbert (Senior DNA Analyst) reached 14 years of dedicated service to the DFS.

Toxicology Unit:

- As reported at our last meeting, the American Board of Forensic Toxicology (ABFT) conducted an on-site reaccreditation inspection in May. Last week, DFS received official notification that the Toxicology Lab has fulfilled the ABFT accreditation requirements and is granted Laboratory Accreditation through June 30, 2020.
- There are currently approximately 118 open post mortem cases and 110 open DUI cases. The cases are not in backlog status for long, as the Tox Unit promptly assigns the cases for logins and initial tests. Average turnaround times in October were 52 days for post mortem and 33 days for DUI cases.
- Jessica Smith, Chief Forensic Toxicologist, was asked to be on the Advisory Board for Thomas Jefferson University's Professional Science Master's Program in Forensic Toxicology. In part, the board will ensure students are fully prepared for work in the field, will suggest program curriculum and guidance with internship placement. This position is a positive reflection on Jessica and the DFS and may bring future internship opportunities to DFS.

Medical Examiner Unit:

- Director Evans recognized the Forensic Morgue Assistants, Investigators and Pathologists again for their continued flexibility, teamwork and commitment, which has resulted in their ability to meet the mission in an effective and efficient manner despite the shift in autopsy operations to the Georgetown office. The project is into its fourth month and he is aware that traveling up and down the state on a daily basis is taking its toll on some, but again, the team is continuing to get the job done and done well.

- As mentioned at previous meetings, each of the DFS four disciplines has experienced an increase in casework, which will be further detailed in the Annual Report, but to give everyone an idea on the workload in the M.E. Unit alone, YTD, it has certified 1,050 deaths, which is an 11% increase over last year, and the office has reviewed and approved 3,941 requests for cremation. Despite this increase in caseload, the majority of reports are being completed within accreditation standards and as mandated by statute.
- Dr. Collins, Dr. Krolikowski and Investigator Jimmy Patton attended the National Association of Medical Examiners' Annual (NAME) Conference in Florida. Drs. Collins and Krolikowski were both asked to give presentations on unique case studies they have handled. Jimmy Patton sits on the ABMDI board and attended a meeting as well. Again, this was positive national exposure for both our staff and the DFS.
- Chief Investigator Julia Vekasy and Forensic Morgue Assistant Gary Rauso attended an advanced forensic photography course in FL. They will share what they learned with the other investigators, which will help in using the new, soon to be rolled out, cameras.
- Investigators Julia Vekasy, Leslie Jones and Chuck Ward attended the DSP Homicide Conference during the week of October 13th.
- Last week, Dr. Collins gave a lecture at the Delaware State University, again as part of our collaboration with DSU and Dr. Hans.
- Chief Investigator Julia Vekasy, as well as Investigators Katharine Pope and Mark Horton, celebrated their 3 year anniversary with DFS, while Investigator Leslie Jones reached her first year with DFS. Congratulations and thank you to all.

Quality Assurance:

- Johna Esposito, DFS Quality Assurance Manager, received training in new accreditation standards, leadership and safety, while attending the Association of Forensic Quality Assurance Managers meeting in Rhode Island.
- Johna is coordinating an on-going internal audit of our Division-wide and lab-specific policies and procedures. This is an opportunity to make sure that DFS policies are up to date, accurate and compliant with standards.
- On October 29th, Johna sent out the DFS Customer Survey by e-mail to DFS stakeholders including law enforcement, the DOJ, funeral homes, and others.

Morgue Renovation Project:

- Continues to progress. The new HVAC Unit has been placed on the cement pad at the south end of the building, duct work is just about complete, electrical, plumbing and dry wall work is underway. The new coolant system for the body coolers has been installed including roof top units. The project is slated to be completed by mid-December.

Outreach:

- Since our last meeting, Becky Walker has lectured a class of juniors and seniors at the University of Delaware in the Sociology Dept.
- A class from DelTech High School came to our office for a presentation and tour, as did an entomology class from the University of Delaware.
- And finally, a paper was recently published in the *Journal of Community Health*, on an analysis of overdose deaths in DE by both geographic area and neighborhood type for the years 2013-2016. A doctoral student from the Sociology and Criminal Justice Dept. at the University of DE took the lead on the article, and was assisted by Becky Walker and others.
- Director Evans asked if there were any questions/comments concerning his report.
 - Ms. Anita Symonds asked if Commission members could see the Customer Survey being sent out to DFS stakeholders. Director Evans said he sees no reason why not and asked if she would like to see the blank form or the findings DFS received. Ms. Symonds said she would prefer both versions. Ms. Esposito noted that the survey sent out recently has a “reply by” date of December 20th. Director Evans mentioned that Johna puts together a nice summary packet from the results of the survey. He then asked her to send Commission members a link to the survey website. Chief Hughes asked how DFS went about selecting stakeholders for this survey. Ms. Esposito responded that each Unit is canvassed regarding who they interact with and from that information, a list of customers is created, i.e., the funeral homes, the Eye Bank of Delaware, the Gift Of Life organization, the AG’s, law enforcement agencies, etc. Chief Hughes thanked Johna for this information and said he had asked this question so that members would know how thorough DFS is in creating a database for this survey. He also asked if the responses had increased or decreased over the years. Ms. Esposito said that it has not changed very much, however, DFS has already received 45 responses which, to her, is a good indication an increase in responses will be experienced.
 - Chief Hughes asked about the DNA grant money mentioned earlier. He asked if this is the continuing grant DNA receives each year. Director Evans said, yes; this is how DNA continues to run. Chief Hughes believes another sustainable funding source should be investigated so that if this grant suddenly goes away, another source of funding would be available.

5. Standards & Certifications Advisory Committee

- Ms. Johna Esposito said she would like to address three items: Standards & Certifications (SAC) Committee Members, the SAC Report, and What’s Next?
 - 1) Committee members:
 - a. Two new members: Julia Vekasy and Ashley Wang.
 - b. Susan Wilgus recently resigned from the committee. And today will be Dr. Hans’ last meeting as well. The committee is in need of an outside voice, someone not a DFS employee, preferably someone with access/knowledge about the other forensic service labs and /or agencies in the state.

2) 2018 SAC Report Finalized

- a. Built off the draft presented in June.
- b. Expanded the information regarding the MEU.
- c. Gathered additional information on salaries across the forensic community through salary surveys. Surveys included questions that helped to focus on the most relevant comparison agencies with respect to population served, number of cases processed, and/or cost of living. – pages 3-5 and in the appendix.
- d. Incorporated many suggestions:
 - Included a table outlining why employees resign – page 2
 - Cost of turnover – page 2
 - Delving more into why the positions at the DFS are unique, especially given the accreditation and certifications in the forensic community – page 6
 - Suggestion to remove the positions from the merit system to allow more flexibility in pay and career ladder – page 6
- e. Findings and Highlights
 - Retention
 - Average analyst of the approximately 20 analysts in the labs has only served about 3.5 years (not including new positions). Considering the first 6-18 months was spent in training; that means only 2-3 years of casework contributions.
 - On the MEU side, there are three investigators who have been with DFS for more than 20 years, but 70% of the investigators have served less than five and a half years.
 - Retention is a problem.
 - Salary/Ladder
 - Starting salaries are relatively similar to community
 - High end salaries are NOT commensurate with other forensic agencies
 - Example, top end of DFS analyst's salary is about 18% lower than those from other forensic agencies.
 - Forensic Morgue Assistants are paid about 75% of what other FMAs are paid in the community
 - Example career ladder – page 5
 - Used salary range from community.
 - Still working on career ladders for every position and plan to present that as an addendum to the report at the next meeting.
 - Recommending an "in training" level for each technical position wherein newly hired employees, regardless of education or experience, receive the same lower pay until they are trained and deemed competent for casework, at which point they can be slotted into the appropriate tier on their career ladder. This would save the state in training costs.

3) Coming up:

- a. Career Ladder Addendum
- b. What's Next for the SAC? Proposing that information is gathered on what are the other state-provided forensic services (i.e. fingerprints, crime scene, firearms, etc.) and what standards/certifications are followed with the understanding that the ultimate goal is to house all forensic services under one internationally-accredited roof.

- Chief Hughes suggested that after reading this report, all Commission members take into consideration developing tangible steps to advocate for some of the items that have been noted. Chief Hughes then extended a challenge to Commission members (stating this will be an item on February's Agenda): provide actionable measures and recommendations which can be made by this Commission to advance some of the findings in the SAC report. Secretary Coupe thanked Johna and the SAC committee for their efforts and said that this matter is also one of the Department of Human Resources' missions right now and an outside contractor has been chosen to evaluate all divisions, positions, salaries, training, technical expertise required, etc.
- Ms. Anita Symonds said that while the SAC is looking into standards and certifications for the division as a whole, she would like to discuss the standards and best practices in the Medical Examiner Unit. Chief Hughes asked if she meant in connection with NAME. Ms. Symonds said, no, the last time she saw policies and procedures was in 2015 and she would like to know about other things, say, evidence collection of victims of crime, etc. ODS Schwind said she does not think a lot of rape kits are routinely being done on decedents. Chief Hughes said it should be determined what is policy and what are the standards and certifications through NAME. He suggested Director Evans look at it from the policy standpoint, and that the SAC committee look to NAME for certifications and standards and bring those findings to the Commission. Director Evans said he is surprised at Ms. Schwind's point of view that rape kits are not "routinely" done. He believes the decision on whether or not a rape kit is utilized for a decedent is made on a case-by-case basis and is a determination made between the investigator, the assigned DAG, and the pathologist.
- Ms. Anita Symonds asked if the SAC committee were reaching out to other states for their policies and types of forensic services provided under one roof or just from within our state. Ms. Esposito responded that they were looking to gather information on all forensic services provided within the state and looking at other facilities would be another point to research. Ms. Symonds then asked if this activity should even fall within the realm of the SAC committee. DAG Lisa Morris responded that one of the basis for creating both the Standards and Certifications and the Strategic Planning committees was to look at the criminal justice community as a whole and see what operations could be brought into the division and to establish a forward-thinking plan of all forensic services being under the same roof. She said that in order to consider this, the Strategic Planning committee would need to know what standards and/or certifications would be required, so she thinks it appropriate for the SAC committee to look at the centralization, taking into account the standards/certifications that would be required.
- DAG Axelrod said it would be very helpful to his Strategic Planning committee to know what standards/accreditations would be required and what impact it may have on centralization of services. He said this information might then help guide the committee's decision on whether to bring all services together or not. Ms. Schwind pointed out that other jurisdictions have managed to figure it out – Maryland, for example, has the firearms group, the fingerprint group, etc. all under one roof, all with the same certifications. She said perhaps some toes would be stepped on in combining the services in this state because certain groups might not be able to meet those standards, but the Commission should want the highest degree of accreditation standards for all Delawareans. Chief Hughes certainly agrees, and is sure everyone on this Commission does also, but at the end of the day, the picture must be painted – what it will look like and how big it should be, a cost benefit analysis performed to bring all the services under one roof, and the fiscal impact of doing it.

- Major Meadows said he understands the scope of what the centralization would look like – which would include firearms, alcohol, those type of services - but would the outside vendors who are used sometimes also be included in the accreditation scope of work or is it just in-house work. Ms. Esposito said it would be in-house and the quality assurance programmer would be overseeing the accreditation process. Major Meadows said he thinks both the SAC and Strategic Planning committees have a role in the planning of whether or not to bring all forensic services under one roof.
- Major Meadows then made a motion for the SAC committee to have a role in the future planning re: consolidation of services and that they should continue with their work; DAG Axelrod seconded the motion. Hearing no other objections, all other voting members in attendance unanimously voted to approve the motion.

6. Strategic Planning and Advisory Committee

- DAG Axelrod reported that his committee has not met since the last Commission meeting; their next meeting is scheduled for this coming Tuesday, 11/13/18.

7. Commission's Goals/Objectives for 2018

- Chief Hughes asked if there were anything members would like to add to 2018 objectives. Hearing none, he said that he is looking forward to a good, robust discussion on 2019 Goals/Objectives at our February meeting.

8. Commission Members Open Discussion

- Ms. Anita Symonds said that while the SAC is looking into standards and certifications in relationship to NAME, she does have concerns about DFS policies and procedures and has expressed this many times. However, she said, for actual evidence collection, and such, she does not think more of the Commission needs be involved in that, but she does have concerns which have been pushed aside in the past. Ms. Symonds said more needs to be looked into, not in a negative way, but more in an educational way. She said the Commission is supposed to be evaluating and preserving the independent judgement and integrity of all the sciences. Ms. Symonds does not believe the Commission has looked into this and offered to put it in writing and articulate a little better on what it is she would like to see happen going forward. Chief Hughes asked legal counsel, DAG Morris, if it would be inappropriate for Ms. Symonds to put her requests in writing and then send that letter to him and he would share with the Commission. DAG Morris asked Ms. Symonds if she were referring to policies and procedures in the Medical Examiner Unit and Ms. Symonds said, yes.
- DAG Morris asked Johna Esposito, DFS Quality Assurance Manager, if the ME's policies and procedures were now in Qualtrax and if they can be printed out. Ms. Esposito responded in the positive. DAG Morris then asked Ms. Symonds if she wanted to read them. Ms. Symonds said, yes, but what she is getting at is how management knows whether or not these policies/procedures are actually being followed. Chief Hughes said he believes a good place to start would be to circulate the ME's policies and procedures and after that, this item could become one of the 2019 goals to follow. DAG Morris offered to circulate them.

- Ms. Symonds announced that she sent an email to Governor Carney and she doesn't know who, other than Secretary Coupe, has seen it. She handed a copy of the email to DAG Morris to look over and advise what can and cannot be shared here in open session. She will say that it was a request and was about concerns raised at our last meeting. Ms. Symonds said while DAG Morris is reading that email, she would like to share that last week she came to DFS and met with Director Evans and Amrita Lal-Paterson regarding how DFS runs CODIS DNA and to see how things are set up so that what happened in the past will not happen again. Ms. Symonds reported that she was very comfortable with the process that is in place now and that the current staff at DFS are absolutely on target. She then suggested that other members of the Commission visit as well so they can see and better understand exactly what is going on.
- Upon completion of her review of Ms. Symonds email, DAG Morris said that it can be shared in open session. Ms. Symonds then passed around copies of the emails she brought with her and the Governor's response. She said that one of her main concerns was that the DAG serving the Commission also representing DSHS and DFS. DAG Morris said she provides information and legal advice in her role as an attorney for the Commission and that her advice is based on FOIA because these are public meetings. To the extent that something is confidential, and in DFS there are a lot of things that are confidential due to active criminal cases and criminal investigations, there are things that cannot be brought to this table. To advise the Commission, she is looking at FOIA and at the Commission's charge, and the Commission is created under DSHS.
- ODS Schwind said she finds it very interesting that Secretary Coupe called her boss after the last meeting. Chief Hughes asked Ms. Schwind to hold for a minute. She insisted she wants everyone to know that Secretary Coupe contacted her boss, Brendan O'Neill, and said the Secretary doesn't even know him but called him about her. Secretary Coupe said he does indeed know Brendan and will contact him when necessary. Ms. Schwind told Secretary Coupe that her boss put her on this Commission because she is like a dog with a bone; she will stay on top of anything until she knows the truth. ODS Schwind then recited the chorus from Kenny Rogers' "The Gambler".
- ODS Schwind then brought up that she could not find any Delaware DNA Inspector General's Office (IGO) reports on the internet other than for 2004. She thinks it is very strange since DNA uses their software and that all the other states across the country have audits that are listed, say every other year, but not anything except 2004 for Delaware and terrible things were found by the IGO at that time. Ms. Lal-Paterson asked if ODS Schwind were talking about CODIS software (NDIS). ODS Schwind said, yes, and then asked for IGO reports for 2013-14-15 because they are not available on the internet. DPA Klein noted that prior to 2010, only the executive summaries were put on-line. ODS Schwind emphatically stated that DNA has a requirement to report any incident to the Inspector General's Office.
- Ms. Lal-Paterson explained DNA is audited every year against the FBI quality assurance standards. She said Ms. Schwind couldn't find any IGO audits since 2004 because there have not been any IGO audits conducted for Delaware since 2004; Ms. Schwind said she did not know that, however she strongly believes the 2014 incident should have been reported to IGO. Ms. Lal-Paterson responded that the incident was reported.
- Major Meadows said that as a Commission member he thinks he should go on record at this point and let everyone know that a lot of dialog in this meeting and the previous meeting has been inappropriate and outside the scope of this Commission. As to the incident in 2014,

there is an on-going investigation and he, as a Commission member, would prefer to wait to have that dialog when the investigation is completed.

8. Executive Session pursuant to 29 Del. C. § 10004(6), discussion of Investigatory Files

- Chief Hughes said it is at this point in our meeting that the Commission will go into Executive Session but before he asks for a motion, he said he is recusing himself from this session. Secretary Coupe made a motion to move forward with the session and Secretary Walker seconded the motion. Hearing no other objections, all other voting members in attendance unanimously voted to approve the motion.
- The Executive Session began at 11:33 a.m.

Adjourn

- The meeting was adjourned.

Next Meeting Date: Monday, February 11, 2019
DFS – Wilmington, 1st Floor Conference Room
10:00 am – 12:00 pm